The Cochin Village Panchayat Regulation Amendment Bill.

Mr. Thomas Manjuran:—I beg to introduce the Cochin Village Panchayat Regulation Amendment Bill. There is only one substantive clause in the Bill and that clause speaks for itself. In the existing Regulation there is no specific provision for the election or the appointment of Presidents of group Panchayat Courts. It was brought to the notice of the Government by the Registrar of Village Panchyats that it was highly necessary that some provision should be made for the purpose. Hence this amending Bill has been introduced which only tries to enact that "The Presidents of group Panchayat Courts shall either be appointed by the Diwan or elected by the Judges of the Group Panchayat Courts concerned as the Government may, by notification in the Government Gazette, decide." The option is given either for the Diwan to nominate the President of a group Panchayat Court or to give the power of election to the Judges. As a matter of fact, what is intended is, I may at once state, that the Government may, in cases where it may take a long time for the new Judges to function, nominate the Presidents of the group Panchayts. Normally the Presidents will be appointed by election. But there some times arise cases when it may not be practicable to wait till the Panchayats themselves elect. So this is only intended to introduce a power of election in the Judges and also to confer upon the Government the power in emergencies to nominate Panchayat Presidents. This is a merely routine provision the absence of which has given rise to practical difficulties. I therefore move to introduce the Bill.

Mr. C. J. Mathew:—I second it.

Mr. P. Kumaran Ezhuthassan:—Mr. President, Sir, on principle I oppose this Bill. The amendment offends the very principle underlying the constitution of Panchayats and Panchayat Courts, the principle underlying being one of election and not of appointment by the Government. I can quite appreciate the position that in as much as the existing Regulation does not contain adequate provisions regarding the election of Presidents of group Panchayat Courts some provision has to be enacted by which these Presidents can be elected as distinguished from being appointed. The amendment that is sought to be introduced to the existing Regulation is to the following effect:—"In clause 19 of the existing Regulation which relates to the constitution of Panchayat Courts and Panchayat Judges an additional clause may be added namely, "The Presidents of the Group Panchayats shall either be appointed by the Diwan or elected by the Judges of the Group Panchayats concerned as the Government may, by notification in the Government

LIBRARY ARCHIVES Kerala Legislative Assembly

Gazette, decide." It is this the earlier part of the amendment that I oppose, namely the power being given to the Diwan to appoint the Presidents of the Group Panchayat Courts as distinct from the power of the Judges to elect their own President. As I submitted before, since that provision offends the very principle underlying the constitution of Panchayat Courts, I oppose this Bill. All the needs of the situation could be met by having clause B alone of the proposed amendment, namely, "In line 3 of the last sentence of the same section insert between the words 'Judges' and 'of' the words 'and of Presidents". It must be admitted that there is no provision in the existing Regulation regarding the election of the Presidents of the group Panchayat Courts. The needs of the situation can be met by having clause B of the proposed amendment. Anything that offends the very principle underlying the constitution of Panchayats, namely one of election has to be opposed and for that reason I oppose the proposed amendment.

Mr. T. K. Nayar:— Is the matter going to be referred to a Select Committee ?

Mr. Thomas Manjuran:— As at present advised, there is no necessity to do so. I shall explain further. I think the whole thing is based on a misconception. Under the existing Regulation the Presidents of Group Panchayat Courts are being nominated by the Diwan. This bill, in effect, confers on Group Panchayats the power to elect their own Court Presidents. The practice has all along been to nominate one of the Judges as President. Now it was thought that it was rather straining the existing provision to consistently go on nominating these Presidents. So the Government thought of introducing this Bill which for all normal and ordinary occasions confer the power of election on the Judges themselves. But there may arise emergencies. The idea of a President of a group Panchyat court involves the idea that all these groups should begin to function before the President himself is elected by the groups. There may be Judges belonging to several Panchayats constituting one group. It may be that there will be delay in electing a Judge for a group. In the meantime the work of the Panchayat Courts must go on. Gaps would be the result unless a Panchayat President is nominated when the place cannot be filled up without undue loss of time. It is only as a matter of fact to regularise this procedure and also at the same time to confer substantial power upon the Judges that the Bill is introduced. It is not at all reactionary. It is just the other way.

Mr. P. Kumaran Ezhuthassan:— Where exactly is the difficulty for election.

Mr. Thomas Manjuran:—All the Judges may not have been elected. Between the going out of office of the existing Judges and

LIBRARY ARCHIVES Kerala Legislative Assembly

the coming in to office of the new Judges considerable time may elapse. There must be continuity.

Mr. P. Kumaran Ezhuthassan:—Is the appointment only temporary to be subsequently changed by election?

Mr. Thomas Manjuran:—These Panchayat Judges are all elected by the Panchayats themselves. One of them is called a senior Judge; another is called a President. What is the great popular right that is attempted to be invaded? No attempt is made here to make any inroad into the rights of Panchayats and Panchayatdars. You can magnify these things. It is only for convenience and not for anything else that this bill was introduced. The Diwan is allowed to nominate one senior Judge as President and this power is to be used only very sparingly. If the matter has to be examined by a Select Committee, by all means do so.

Mr. A. Sivarama Menon:—I think the position should be made clear. From the statement made by the Hon'ble the Law Member, I am sure the House will be satisfied that the idea of the Government is to introduce the power of election. As the Hon'ble the Law Member explains the present rule is that one of the Judges shall be styled as President. This is done by adopting the method of nomination. The proposed amendment seeks to confer on the Judges of the group Panchayat Courts the right of election as a general rule and to restrict the right of nomination to causes of real emergency. The language of the amendment however does not bring out this idea clearly. On the other hand it suggests that the Government want to act in an arbitrary manner. The amendment reads thus: "The Presidents of the Group Panchayat Courts shall either be appointed by the Diwan or elected by the Judges of the Group Panchayat Courts concerned as the Government may, by notification in the Government Gazette, decide." This language does not give one the impression that the power of nomination is sought to be exercised only in cases of emergency. Where there may be undue delay in electing a President which causes difficulties and inconveniences as pointed out by the Hon'ble the Law Member then the power of nomination may be exercised. The Government must adopt one of two courses. Either continue the existing practice of nomination or adopt the more liberal and democratic method of election. The House will of course prefer the latter. But even if the Government reserve the right of nomination to be exercised on certain contingencies referred to by the Hon'ble the Law Member, this House will in my opinion support them provided the intention of the Government is expressed in clear and inambiguous terms. I therefore request the Hon'ble the Law Member to improve the language of the amendment and make it acceptable to the House.

LIBRARY ARCHIVES Kerala Legislative Assembly

Mr. Thomas Manjuran:—I have no objection to refer the Bill to a Select Committee.

Mr. P. Kumaran Ezhuthassan:—For the information of the House, I may say that the position expounded is not the correct one. Panchayats, as they now function, elect their own President, which election is ratified by the Diwan and he subsequently becomes the President of the Panchayat Court. That is the position.

Mr. P. V. Raphael:—The position is this. The Panchayats elect their own Presidents and these Presidents are, under the provision of section 5 of the amended regulation, nominated as the Presidents of these courts. That is what is being done. Now by virtue of this proposed amendment we want to amplify and make sure that the language is correct. That is the thing we want to do.

Mr. P. Kumaran Ezhuthassan:—It is not amplification, it is nullification.

Mr. P. V. Raphael:—Under the old Regulation it is absolute nomination in the Panchayat Courts whereas under the amendment we want to give the power of election. It is certainly amplification and not nullification.

മിസ്റ്റർ ടി. കെ. നായർ:—സർ, ഇതിൽ ഒരു വിഷയംകൊണ്ട് ഗവൺമെന്റിനു കുറച്ചു ദുഃഖിപ്പിക്കുവാൻ അവകാശമുണ്ട്. പഞ്ചായത്തു കോർട്ടിൽ നിന്നും ഗ്രൂപ്പുകോർട്ടിലേയ്ക്കു പ്രസിഡൻറിനെ നാമനിർദ്ദേശം ചെയ്യുവാനോ, ഇലക്ഷൻ ചെയ്യുവാനോ ഉള്ള ഒരു അധികാരം കൊടുക്കണമെന്നല്ലാതെ വേറെ ഒരു സ്ഥാനവും ഇതിനില്ല. ഇതിനെക്കുറിച്ചു പഞ്ചായത്തു രജിസ്ട്രാരവർകൾക്ക് എന്തോണ്ട് ഒരു മിസ്സണ്ടർസ്റ്റാൻറിംഗ് ഉണ്ടായിട്ടുണ്ടെന്നു തോന്നുന്നു. ഈ ബിൽ ശരിക്കു വായിച്ചാൽ അങ്ങിനെ യാതൊരു മിസ്സണ്ടർസ്റ്റാൻറിംഗിനും അവകാശമില്ല. ഒന്നുകിൽ നാമനിർദ്ദേശം, അല്ലെങ്കിൽ ഇലക്ഷൻ ഇതിൽ രണ്ടിലൊന്നല്ലാതെ വേറെ അർത്ഥമൊന്നും ഇതിനില്ല. ഏതെങ്കിലും ഒരധികാരം ഈ കാര്യത്തിൽ കൊടുക്കാമെന്നു ഗവൺമെൻറിനു തോന്നുന്നുണ്ടെങ്കിൽ ഈ ഇലക്ഷനെങ്കിലും പഞ്ചായത്തിലേക്കു വിട്ടുകൊടുക്കാൻ വിരോധമില്ല. ഇതുവരെ ആ അധികാരം ഗവൺമെൻറിനുതന്നെയാണുള്ളതു്. അതു് പഞ്ചായത്തിലേക്കു വിട്ടുകൊടുക്കുന്ന കാര്യത്തിൽ ഗവൺമെൻറ് കൺസിഡർ ചെയ്യേണ്ടതുണ്ടോ എന്നാണു നോക്കേണ്ടതു്. സാധാരണ പഞ്ചായത്തു കോർട്ടിൽ നിന്നാണ് ഗ്രൂപ്പ് കോർട്ടിലേക്കു ജഡ്ജിമാരെ അപ്പായിൻറ് ചെയ്യുന്നതു്. ആ ജഡ്ജിമാരിൽ നിന്നുമാണ് ഗവൺമെൻറ് പ്രസിഡണ്ടുമാരെ അപ്പായിൻറ് ചെയ്യുന്നതു്. അല്ലാതെ അതിലേക്കു് ഇലക്ഷനും മാറുമില്ല. പഞ്ചായത്തു കോർട്ടിൽനിന്നു് മെമ്പർമാരെ ഇലക്ട് ചെയ്തു് ഗ്രൂപ്പുകോർട്ടിലേക്കു രണ്ടോ മൂന്നോ ജഡ്ജിമാരെ നിയമിക്കുവാനുള്ള അധികാരം ഗവൺമെൻറ് കൊടുത്തിട്ടുണ്ട്. ഏ

LIBRARY ARCHIVES Kerala Legislative Assembly

ന്നാൽ അതിലേക്ക് പ്രസിഡണ്ടിനെ നിശ്ചയിക്കുവാനുള്ള അധികാരം ഗവണ്മെൻറിനു തന്നെ കൊടുക്കണോ ആ ജസ്റ്റിമാക്കു കൊടുക്കണോ എന്നു പറഞ്ഞഭാഗം ഈ ബില്ലുകൊണ്ട് അർത്ഥം വരുന്നുണ്ടെന്നു തോന്നുന്നില്ല. മേല്പറഞ്ഞ രണ്ടു സംഗതികളിലാണ് ഇവിടെ അഭിപ്രായവ്യത്യാസമുള്ളതു്. ഈ വിഷയത്തിൽ പഞ്ചായത്തുകാരുടെ അഭിപ്രായം അറിയണമെന്നു തോന്നുന്നപക്ഷം അവരോടു ചോദിച്ചറിയുകയോ അല്ലാത്തപക്ഷം ചെറുതായ ഒരു കമ്മിറ്റിയെ നിയമിച്ച് അവരുടെ അഭിപ്രായം അറിയുകയോ ഇതു രണ്ടുമല്ലെങ്കിൽ ഈ കൌൺസിലിലെ അഭിപ്രായം പോലെ രീതമാനിക്കുകയോ ചെയ്യേണ്ടതാണ്.

Mr. Thomas Manjuran:—We are just now on the introduction stage. I note the opinion expressed by several Hon'ble Members and presently a stage will come when the question of referring the Bill to a Select Committee will be considered. As I see that there is considerable difference of opinion on the matter, we shall have a Select Committee provided of course we can get through the matter very urgently, because I am assured by the Registrar of Village Panchayats that the matter is very urgent. In the meantime the motion before the House may be put.

President:—The motion before the House is that the Cochin Village Panchayat Regulation Amendment Bill be read in Council.

Motion put and carried.

Mr. C. J. Mathew:—The title of the Bill is "The Cochin Village Panchayat Regulation Amendment Bill."

Mr. Thomas Manjuran:—I beg to move, Sir, that in view of the fact that the opinion of the House seems to be in favour of appointing a Select Committee, a very small Select Committee may be appointed. I mayalso, in this connection, state that since the Bill has been emergently passed, and since it will lapse within six months' time, this matter will have to be expedited. The Committeee will have to be very small one indeed, and I propose the following gentlemen tobe members of the Committee, namely, Messrs. T. K. Nayar, Kumaran Ezhuthassan, the Registrar of Village Panchayats, Mr. P. Krishna Menon and the Government Advocate.

Mr. C J. Mathew:—I second it.

Motion put and carried.

President:—The Committee should report within a month and the Government Advocate to be the Chairman.

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